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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|---|-------------|----------------------|------------------------------|------------------------|
| 10/605,931  | 11/06/2003  | Tim A. Matus         | 14238 (ITWO:0335)            | 2930                   |
| 52145 7590 09/24/2009<br>FLETCHER YODER (ILLINOIS TOOL WORKS INC.)<br>P.O. BOX 692289<br>HOUSTON, TX 77269-2289 |             |                      | EXAMINER<br>PASCHALL, MARK H |                        |
|   |             |                      | ART UNIT<br>3742             | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>09/24/2009      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* TIM A. MATUS

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Application No. 10/605,931  
Technology Center 3700

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Mailed: September 24, 2009

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Before MARIA VIGNONE, *Supervisory Trial Clerk*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 21, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on October 6, 2008, in response to the Examiner's Answer mailed August 4, 2008.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communications mailed October 22, 2008 and August 6, 2009 are an improper acknowledgments of the Reply Brief, as each constitutes a Supplemental Examiner's Answer per MPEP§ 1208, part II. A Supplemental Examiner's Answer requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) vacate the Communications mailed October 22, 2008 and August 6, 2009;
- 2) generate and mail either:
  - a) a revised Communication properly acknowledging to the Reply Brief dated October 6, 2008 in accordance with MPEP§ 1208, part II;
- OR
- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate, and;
- 3) for such further action as may be appropriate.

Application No. 10/605,931

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

MV/nhl

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